

Case :- WRIT - C No. - 10862 of 2024

Petitioner :- And Another

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Shakil Ahmad

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Shakil Ahmad, learned counsel for the petitioners and Sri Pramit Kumar Pal, learned standing counsel for the State.

2. This is a petition seeking following reliefs:

"i. issue writ order or direction in the nature of mandamus directing and commanding the respondent nos.2 and 3 and private Respondent No.4 are restrained from interfering with the life, liberty and privacy of the petitioners to live as man and woman.

ii.issue writ order or direction in the nature of mandamus directing and commanding the concerned police authorities to ensure the safety of the petitioners and provided the protection to the petitioners from the respondent No.4 alongwith unsocialist persons."

3. Learned counsel for the petitioners submits that the petitioners do not want to press clause-3 of the prayer clause.

4. Contention of the petitioners are that without converting into faith/religion of the other, they have decided to cohabit as husband and wife. Both have crossed minimum prescribed age of marriage.They liked each other and, therefore, are living in live-in-relationship as husband and wife. Further it is contended that they have decided to marry each other under the Special Marriage Act. Submission is that they are facing threats from respondents and therefore they cannot move freely. They cannot pursue their matter diligently for getting married under the provisions of Special Marriage Act unless protection is granted to them.

5. Supplementary affidavit has been submitted in which it is categorically submitted that they will continue to follow the faith/religion of their own and do not propose to convert and that they are mature enough to take decision as regard their lives. Further they seriously want to enter into matrimonial relationship as per law.

6. Learned standing counsel submits that petitioners have mentioned in the petition that they have already got married as per marriage agreement. Such marriage is not recognized in law, therefore, no protection can be given.

In my opinion, marriage through agreement is definitely invalid in law. However, law does not prevent the parties from applying for court marriage under the Special Marriage Committee, without conversion.

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7. In the circumstances, I find it fit to direct the respondent nos. 2 and 3 to see that meanwhile no harm to the life of the petitioners is caused by respondent no.4 directly or indirectly.

8. List on 10.07.2024 in the additional cause list.

9. To show their bonafides, by next date of hearing the petitioners shall take steps for solemnizing their marriage under the provisions of Special Marriage Act and file documentary proof thereof with the supplementary affidavit.

Order Date :- 14.5.2024

Asha